

## Remarks

### Claim Amendments

Claim 1 has been amended to limit the concentration range of the adduct of maleic anhydride and polybutadiene to 9 to 10 phr as recited in canceled claim 21.

### Rejections Under 35 U.S.C. Section 103

The claims have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Corvasce et al. (U.S. Patent No. 5,672,639; hereinafter "Corvasce") in view of Huynh-Tran et al. (US2003/0152758, hereinafter "Huynh-Tran"). To the extent the amended claims are deemed unpatentable over the cited art, these rejections are traversed.

Applicants incorporate by reference the arguments regarding the showing of unexpected results previously presented in the Appeal Brief mailed March 27, 2006 and Reply Brief mailed January 25, 2007, and further in the Frank Declaration mailed September 15, 2008, and further in the response mailed February 18, 2009 and add the following comments.

Applicants again urge that the claims as amended are commensurate in scope with the showing of unexpected results and are patentable over the cited art. In particular, Applicants urge that the adduct of maleic anhydride and polybutadiene range of 9 to 10 phr is commensurate in scope with the showing of unexpected results. "[T]he unobviousness of a broader claimed range can, in certain instances, be proven by a narrower range of data. Often, one having ordinary skill in the art may be able to ascertain a trend in the exemplified data which would allow him to reasonably extend the probative value thereof." In re Kollman and Irwin, 201 U.S.P.Q. 193, 199 (C.C.P.A. 1979). Clearly, one skilled in the art will ascertain the trend in the exemplified data toward greater nonlinearity in G' vs strain at higher concentration of the adduct of maleic anhydride and

polybutadiene. While the more pronounced nonlinearity in  $G''$  is demonstrated only at 9 phr, Applicants urge that the data is sufficient to support the broader claimed range as the established trend demonstrates that the nonlinear behavior in  $G''$  can be expected at concentrations higher than 4.5 phr; the nonlinearity demonstrated at the lower concentrations of 1.5 and 4.5 phr is much less than that at 9 phr, and supports the contention that the strong nonlinearity observed at 9 phr will also be seen at higher concentrations at least up to the recited 10 phr.

### **Conclusion**

Applicants urge that the amended claims are now fully patentable over the cited art. Applicants respectfully request allowance of all claims.

Respectfully submitted,

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